

NOTE: Government Code section 11340.85 requires the Board to post all notices, initial statement of reasons and texts of rules noticed to the public until 15 days after the proposed regulations are filed with the Secretary of State by the Office of Administrative Law.

CALIFORNIA HORSE RACING BOARD
TITLE 4, DIVISION 4, CALIFORNIA CODE OF REGULATIONS

NOTICE OF PROPOSAL TO AMEND
RULE 1588, HORSE INELIGIBLE TO START IN A RACE
AND
RULE 1866. VETERINARIAN'S LIST

The California Horse Racing Board (Board or CHRB) proposes to amend the regulations described below after considering all comments, objections or recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Board proposes to amend Rule 1588, Horse Ineligible to Start in a Race. The proposed amendment will add a new subsection 1588(a)(14) to provide that any horse that has not raced within 12 consecutive months since its previous start is ineligible to start in a race until such horse has performed satisfactorily in a workout or a standardbred qualifying race as provided in subsections (e) and (f) of Rule 1866, Veterinarian's List. In addition, the proposed amendment of Rule 1588 will add a new subsection 1588(a)(15) to provide that a horse that has never started in a race, and that is four years of age or older, is ineligible to start in a race until such horse has performed satisfactorily in a workout or a standardbred qualifying race as provided in Rule 1866(e) and (f). The proposed amendment to Rule 1866 will modify subsection 1866(e) to make it clear that qualifying races are standardbred events.

PUBLIC HEARING

The Board will hold a public hearing starting at **9:30 a.m., Thursday, June 20, 2019**, or as soon thereafter as business before the Board will permit, at the **Santa Anita Park Race Track, 285 Huntington Drive, Arcadia, California**. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the informative digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony.

WRITTEN COMMENT PERIOD

Any interested persons, or their authorized representative, may submit written comments about the proposed regulatory action to the Board. The written comment period closes at **5:00 p.m. on June 10, 2019**. The Board must receive all comments at that time; however, written comments may still be submitted at the public hearing. Submit comments to:

Harold Coburn
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone: (916) 263-6026
Fax: (916) 263-6022
E-mail: haroldc@chrb.ca.gov
AUTHORITY AND REFERENCE

Authority: Sections 19440 and 19562, Business and Professions Code.

Reference: Sections 19440, 19562 Business and Professions Code.

INFORMATIVE DIGEST / POLICY STATEMENT OVERVIEW

Business and Professions Code section 19440 provides the Board shall have all powers necessary and proper to enable it to carry out fully and effectually the purposes of this chapter. Responsibilities of the Board shall include adopting rules and regulations for the protection of the public and the control of horse racing and pari-mutuel wagering. Business and Professions Code section 19562 states the Board may prescribe rules, regulations and conditions under which all horse races with wagering on their results shall be conducted in California. Business and Professions Code section 19580 provides that the Board shall adopt regulations to establish policies, guidelines, and penalties relating to equine medication to preserve and enhance the integrity of horse racing in the state.

The CHRB tracks horse fatalities that occur at any facility under its jurisdiction. Horses may suffer fatalities while racing, training, or due to other non-exercise related causes, including stable area accidents or medical maladies such as gastro-intestinal, respiratory, or neurological diseases. One of the primary purposes of tracking such fatalities is to identify health and safety risks for horse and rider, and to implement preventive or corrective actions. At the February 2017 CHRB Medication, Safety and Welfare Committee meeting, staff reported that a survey of California racehorse fatalities occurring 2013 through 2016 revealed that twenty percent of the losses were horses that raced after an extended lay-off. At the recommendation of the Board's Equine Medical Director, the Committee endorsed a proposal to amend Rule 1588 to require that horses returning from an extended layoff demonstrate their physical fitness prior to being entered to race. The proposed amendment will aid in the reduction of race horse injuries and fatalities by providing that a horse will not be allowed to start in a race after a 12-month layoff, unless it is found to be raceably sound and in fit physical condition to exercise its best efforts in a race.

The proposed amendment to Rule 1588 would add a new subsection 1588(a)(14), which provides that a horse that has not raced at a recognized race meeting within 12 consecutive months is ineligible to start in any race until such horse has performed satisfactorily in a workout or standardbred qualifying race as provided in Rule 1866(e) and (f). A "recognized race meeting" is the entire period of a race meeting conducted by an association within the inclosure of the designated grounds, for which the Board has granted a license. The term may include a meeting conducted by an association in another horse racing jurisdiction. As provided under Rule 1866(e),

the proposed amendment gives the official veterinarian the ability to have the horse perform satisfactorily in a workout or standardbred qualifying race to demonstrate its physical fitness. Post-work blood and urine test samples shall be taken from such horse and the provision of Article 6 shall apply to such official workouts in the same manner as a scheduled race. A demonstration of the horse's physical fitness is necessary because an extended layoff from racing removes the horse from racing-level training. Despite an owner's expectations, the horse may not be able keep up with the rigors of racing. In addition, the horse may have been laid off from racing because of injuries. The required workout will give the official veterinarian a chance to evaluate the horse to determine if it has fully recovered. The post-work test samples are necessary to ensure the horse is not running on medications or drug substances designed to mask its true condition. The proposed addition of subsection 1588(a)(14) is in line with the Association of Racing Commissioners International (ARCI) Model Rules of Racing, Rule ARCI-010-030 Horses Ineligible, which provides that a horse is ineligible to start in a race when it has not raced in 12 months since its previous start, until the horse has been subjected to an assessment of its racing condition, including the taking of post-workout blood and urine test samples. The ARCI is the only umbrella organization of the official governing rule making bodies for professional horse racing in North America. It sets standards for racing regulation, medication policy, drug testing and all other aspects of the sport. California's adoption of ARCI Model Rule guidelines brings the Board's regulations in line with ARCI recommendations and promotes uniformity in the various states' horse racing regulations. Such uniformity benefits horsemen who may race in more than one jurisdiction, as a similar regulatory scheme will apply from state to state.

A new subsection 1588(a)(15) provides that a horse that has never started in a race, and that is four years of age or older, is ineligible to start in a race until such horse has performed satisfactorily in a workout or a standardbred qualifying race as provided in Rule 1866(e) and (f). All race horses turn one year old on January 1 of the year following their birth. A horse may start its racing career at two years of age; however, in California, a horse must actually have reached its second birth date before it can enter into a race (For example: a horse born on May 9, 2016 would not be eligible to enter into a race until May 9, 2018.). Nationally, older horses have made up a large part of the racing population with an estimated one-third of the horse racing population at least five years old. Some states enforce age restrictions for Thoroughbreds, and the United States Trotting Association (USTA) enforces a Standardbred retirement age of 14 years.¹ California does not have an age cut off for racing (although it honors the USTA rule). Horses as old, or nearly as old, as 13 years of age regularly compete in North American races. However, it has been demonstrated that un-started four-year-old horses (and older) are at a greater risk of injury than horses that started racing earlier in their career. Although the reason for this is not clear, some horses may start later because of ongoing health issues, or confirmation or soundness issues. A report from the Equine Injury Database (EID), which looked at all California races during the study, states that first time starters four years old and older have an increased chance of injury. The EID found that four-year-old first-time starters were 33% more likely to have an injury than two-year olds. The proposed addition of subsection 1588(a)(15) is necessary to help ensure that horses four years old and older, that are first time starters, are raceably sound and in fit physical condition to exert their best effort

¹ USTA Rule 19-Racing Under Saddle, section 19.04. Age and Gait of Horse. No horse under the age of three (3) and no older than fourteen (14) years of age shall be eligible to start. Racing Under Saddle races shall be restricted to the trotting gait.

in a race. The proposed amendment is in line with the ARCI Model Rules of Racing, Rule ARCI-010-030 Horses Ineligible, which provides that a horse is ineligible to start in a race when it is a first-time starter four years of age or older, until the horse has been subjected to an assessment of its racing condition, including the taking of post-workout blood and urine test samples.

The proposed amendment to Rule 1866 will modify subsection 1866(e) to provide clarity regarding the term “qualifying race.” As used in Rules 1588 and 1866, the term refers to standardbred qualifying races. Qualifying races are purse-less races that are required for horses that break stride too often, behave badly before or during races, that fail to produce speed up to the local standard or that have been sidelined by illness or injury. Essentially, qualifying races assure the public that a horse permitted to start in an event with pari-mutuel wagering is fit for competition.

POLICY STATEMENT OVERVIEW OF ANTICIPATED BENEFITS OF PROPOSAL

The proposed amendment to Rule 1588 would add a new subsection 1588(a)(14). The new subsection provides that a horse that has not raced at a recognized race meeting within 12 consecutive months is ineligible to start in any race until such horse has performed satisfactorily in a workout or standardbred qualifying race as provided in Rule 1866(e) and (f). Post-work blood and urine test samples shall be taken from such horse and the provisions of Article 6 shall apply to such official workouts in the same manner as a scheduled race.

The proposed addition of subsection 1588(a)(14) will promote the health and safety of racehorses and racetrack safety in general. The amendment will aid in the reduction of injuries to horses, or worse, catastrophic loss of racehorses, by requiring horses that have not raced within 12 consecutive months to be examined by the official veterinarian or racing veterinarian and declared raceably sound and in fit physical condition to exert their best effort, before being allowed to enter to race. In turn, the health and safety of jockeys will be advanced, as a reduction in equine injuries and sudden deaths may also mean lower jockey injury rates. The required examination provides an opportunity for the examining veterinarian to evaluate the condition of the horse, which by virtue of being off 12 consecutive months or longer, may have had physical challenges that required time to heal or recuperate. Blood and urine test samples taken after a workout or qualifying race will provide additional information as to the fit physical condition of a horse that has not raced within 12 consecutive months. The addition of subsection 1588(a)(14) serves to ensure that a horse that has not raced within 12 consecutive months is raceably sound and in fit physical condition to exert its best efforts in a race. Ensuring the health of race horses protects the financial interests of racing associations, horse owners, trainers and jockeys. Racing associations depend on an inventory of sound horses to fill races and generate handle; owners and trainers suffer financial losses when horses are unable to compete for a purse; and injured jockeys lose income when they are unable to ride.

The proposed amendment to Rule 1588 adds a new subsection 1588(a)(15) to provide that a horse that has never started in a race, and that is four years of age or older, is ineligible to start in a race until such horse has performed satisfactorily in a workout or a standardbred qualifying race as provided in Rule 1866(e) and (f). The addition of subsection 1588(a)(15) will promote the health and safety of race horses. It has been demonstrated that un-started four-year-old horses (and older) are at a greater risk of injury than horses that started racing earlier in their career. A report from

the Equine Injury Data Base, which looked at all California races during the study, states that first time starters four years old and older have an increased chance of injury. The health and safety of jockeys will also be advanced, as a reduction in equine injuries and sudden deaths may also mean lower jockey injury rates. Ensuring the health of race horses protects the financial interests of racing associations, horse owners, trainers and jockeys. Racing associations depend on an inventory of sound horses to fill races and generate handle; owners and trainers suffer financial losses when horses are unable to compete for a purse; and injured jockeys lose income when they are unable to ride.

The proposed amendment of Rule 1866 will change subsection 1866(e) to provide clarity regarding “qualifying races,” which are also referenced in Rule 1588. As used in the regulations, a qualifying race is a standardbred event. Qualifying races are purse-less races that are required for standardbred horses that break stride too often, behave badly before or during races, that fail to produce speed up to the local standard or that have been sidelined by illness or injury. Essentially, qualifying races assure the public that a standardbred horse permitted to start in an event with pari-mutuel wagering is fit for competition. The proposed amendment of Rule 1866 will work in conjunction with the amended Rule 1588 to provide clarity regarding the racing terms used in the regulations. Standardbred qualifying races ensure the soundness of horses entered to race. Sound racehorses help protect the health and safety of drivers, as well as the financial interests of racing associations, owners and trainers.

CONSISTENCY EVALUATION

During the process of developing these regulations and amendments, the CHRB has conducted a search of any similar regulations on this topic and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

DISCLOSURE REGARDING THE PROPOSED ACTION/RESULTS OF THE ECONOMIC IMPACT ANALYSIS

Mandate on local agencies or school districts: none.

Cost or savings to any state agency: none.

Cost to any local agency or school district that must be reimbursed in accordance with Government Code Section 17500 through 17630: none.

Other non-discretionary cost or savings imposed upon local agencies: none.

Cost or savings in federal funding to the state: none.

The Board has made an initial determination that the proposed amendment to Rule 1588 and Rule 1866 will not have a significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states.

The following studies/relevant data were relied upon in making the above determination:

Association of Racing Commissioners International Model Rules of Racing Version 8.4.1.

Parkin, Tim (2015) Equine Injury Database – models, risk factor and prediction (PowerPoint slides)

Georgopoulos, Stamatis P., Parking, Tim D.H., “Risk factors for equine fractures in Thoroughbred flat racing in North America.” Preventive Veterinary Medicine 139 (2017) 99-104.

Cost impact on representative private persons or businesses: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant effect on housing costs: none.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The adoption of the proposed amendment to Rule 1588 and Rule 1866 will not (1) impact the creation of, or eliminate jobs within the State of California; (2) impact the creation of new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.

The proposed amendment to amendment to Rule 1588 and Rule 1866 is a benefit to the health and welfare of California residents who hold occupational licenses as jockey, apprentice jockeys or other licensees that require proximity to race horses, because the proposed regulations safeguard the health and safety of the California’s racing equines. Sound racehorses help prevent accidents and injuries to horse and rider. The proposed amendment will not benefit the state’s environment.

Effect on small businesses: none. The proposal to amend amendment to Rule 1588 and Rule 1866 does not affect small businesses because horse racing is not a small business under Government Code Section 11342.610.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative considered by the Board, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome on affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the scheduled hearing or during the written comment period.

CONTACT PERSON

Inquiries concerning the substance of the proposed action and requests for copies of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulation, if any, and other information upon which the rulemaking is based should be directed to:

Harold Coburn
Regulation Analyst
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone: (916) 263-6026
Fax: (916) 263-6022
E-mail: haroldc@chrb.ca.gov

If the person named above is not available, interested parties may contact:

Andrea Ogden, Manager
Policy, Regulations and Legislation
Telephone: (916) 263-6033

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its offices at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed texts of the regulations, and the initial statement of reasons. Copies of these documents, or any of the information upon which the proposed rulemaking is based on, may be obtained by contacting Harold Coburn, or the alternative contact person at the address, phone number or e-mail address listed above.

AVAILABILITY OF MODIFIED TEXT

After holding a hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulation substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed texts, the modified texts, with changes clearly marked, shall be made available to the public for at least 15 days prior to the date on which the Board adopts the regulations. Requests for copies of any modified regulations should be sent to the attention of Harold Coburn at the address stated above. The Board will accept written comments on the modified regulation for 15 days after the date on which it is made available.

AVAILABILITY OF FINAL STATEMENT OF REASONS

Requests for copies of the final statement of reasons, which will be available after the Board has adopted the proposed regulation in its current or modified form, should be sent to the attention of Harold Coburn, at the address stated above.

BOARD WEB ACCESS

The Board will have the entire rulemaking file available for inspection throughout the rulemaking process at its web site. The rulemaking file consists of the notice, the proposed text of the regulations and the initial statement of reasons. The Board's web site address is: www.chrb.ca.gov.

INITIAL STATEMENT OF REASONS

RULE 1588. Horse Ineligible to Start in a Race

RULE 1866. Veterinary List

SPECIFIC PURPOSE OF THE PROPOSED NEW SUBSECTIONS

The Board proposes to amend Rule 1588, Horse Ineligible to Start in a Race. The proposed amendment will add a new subsection 1588(a)(14) to provide that any horse that has not raced within 12 consecutive months since its previous start is ineligible to start in a race until such horse has performed satisfactorily in a workout or a standardbred qualifying race² as provided in subsections (e) and (f) of Rule 1866, Veterinarian's List. In addition, the proposed amendment of Rule 1588 will add a new subsection 1588(a)(15) to provide that a horse that has never started in a race, and that is four years of age or older, is ineligible to start in a race until such horse has performed satisfactorily in a workout or a standardbred qualifying race as provided in Rule 1866(e) and (f).

The Board proposes to amend Rule 1866, Veterinary List. The proposed amendment to Rule 1866 will modify subsection 1866(e) to make it clear that qualifying races are standardbred events.

PROBLEM

The CHRB tracks horse fatalities that occur at any facility under its jurisdiction. Horses may suffer fatalities while racing, training, or due to other non-exercise related causes, including stable area accidents or medical maladies such as gastro-intestinal, respiratory, or neurological diseases. One of the primary purposes of tracking such fatalities is to identify health and safety risks for horse and rider, and to implement preventive or corrective actions. At the February 2017 CHRB Medication, Safety and Welfare Committee meeting, staff reported that a survey of California racehorse fatalities occurring 2013 through 2016 revealed that twenty percent of the losses in this state were horses that raced after an extended lay-off. At the same time, the Board looked at first time starters that were four years old, or older. Research into risk factors for equine fractures in the United States has demonstrated that horses starting racing careers at four years old (and older) are at a greater risk of injury than horses that started racing earlier in their career. A report from the Equine Injury Database found that four-year-old first time starters were 33% more likely to have an injury than two year olds. At the recommendation of the Board's Equine Medical Director, the Committee endorsed a proposal to amend Rule 1588 to add subsection 1588(a)(14) to require

² Standardbred, or harness racing is a form of horse racing in which standardbred horses race at a specific gate (a trot or a pace). They pull a two wheeled cart called a sulky, occupied by a driver.

that horses returning from an extended layoff of 12 consecutive months or more demonstrate their physical fitness prior to being entered to race. The proposed amendment will aid in the reduction of race horse injuries and fatalities by providing that a horse will not be allowed to start in a race after a 12-month layoff, unless it is found to be raceably sound and in fit physical condition to exercise its best efforts in a race. To address the issue of risk factors involved with first time starters that are four years old, or older, the Board proposes to amend Rule 1588 to add subsection 1588(a)(15) to provide that a horse that has never started in a race, and that is four years of age or older, is ineligible to start in a race until such horse has performed satisfactorily in a workout or a standardbred qualifying race as provided in Rule 1866(e) and (f). The addition of subsections 1588(a)(14) and (a)(15) will promote the health and safety of race horses and, by extension, the health and safety of jockeys and other racetrack personnel.

Subsection (e) of Rule 1866 currently provides that a horse may be required to perform satisfactorily in a workout or qualifying race to demonstrate its physical fitness. The regulation does not identify a “qualifying race” as a standardbred event. The proposed amendment to Rule 1588 also uses the term “qualifying race.” In discussing the proposed amendment to Rule 1588, the Board was made aware that not everyone would understand that for the purposes of the regulation a qualifying race is a standardbred event. The text of Rule 1588 was changed for purposes of clarity to read “standardbred qualifying race.” Because the proposed amendment to Rule 1588 references subsection 1866(e) and (f), the Board determined it was necessary to amend Rule 1866 to make it clear that “qualifying race” is a standardbred event.

NECESSITY

The proposed amendment to Rule 1588 adds subsection 1588(a)(14), which states that a horse that has not raced at a recognized race meeting within 12 consecutive months since its previous start must perform satisfactorily in a workout or standardbred qualifying race as provided in Rule 1866(e) and (f). As provided under Rule 1866(e), the proposed amendment gives the official veterinarian the ability to have the horse perform satisfactorily in a workout or standardbred qualifying race to demonstrate its physical fitness. Post-work blood and urine test samples shall be taken from such horse and the provision of Article 6 of Title 4, Division 4, Business and Professions Code shall apply to such official workouts in the same manner as a scheduled race. As defined in subsection 1866(f), a workout is an exercise session near full speed, or close to full speed. A standardbred qualifying race is a race at a trotting or pacing gate, in which a standardbred horse must establish its ability to participate at a race meeting. In both cases, the events serve to show the horse’s speed, fitness and ability. A demonstration of the horse’s physical fitness is necessary because an extended layoff from racing removes the horse from racing-level training. Despite an owner’s expectations, the horse may not be able keep up with the rigors of racing. In addition, the horse may have been laid off from racing because of injuries. The required workout will give the official veterinarian a chance to evaluate the horse to determine if it has fully recovered. The post-work test samples are necessary to ensure the horse is not running on medications or drug substances designed to mask its true condition. The proposed addition of subsection 1588(a)(14) is in line with current entry requirements at California race tracks. Board Rule 1437, Conditions of a Race Meeting, provides that the association may impose conditions for its race meeting as it may deem necessary, provided that such conditions may not conflict with the rules, regulations or orders of the Board. Racing associations’ Condition Books state that horses

that have not raced in 90 days, 60 days or 30 days must perform official workouts. The Santa Anita Park Condition Book for its December 2018 through January 2019 race meeting requires horses which have not raced in 90 days to perform 3 works, within 60 days 2 works, and within 30 days 1 work. The official workouts must be met before the horse is eligible to be entered to race. One purpose of the workouts is to ensure the horse is in fit physical condition to race. The proposed addition of subsection 1588(a)(14) is also in line with the Association of Racing Commissioners International (ARCI) Model Rules of Racing, Rule ARCI-010-030 Horses Ineligible, which provides that a horse is ineligible to start in a race when it has not raced within 12 consecutive months since its previous start, until the horse has been subjected to an assessment of its racing condition, including the taking of post-workout blood and urine test samples. The ARCI is the only umbrella organization of the official governing rule making bodies for professional horse racing in North America. It sets standards for racing regulation, medication policy, drug testing and all other aspects of the sport. California's adoption of ARCI Model Rule guidelines brings the Board's regulations in line with ARCI recommendations and promotes uniformity in the various states' horse racing regulations. Such uniformity benefits horsemen who may race in more than one jurisdiction, as a similar regulatory scheme will apply from state to state.

A new subsection 1588(a)(15) provides that a horse that has never started in a race, and that is four years of age or older, is ineligible to start in a race until such horse has performed satisfactorily in a workout or a standardbred qualifying race as provided in Rule 1866(e) and (f). All race horses turn one year old on January 1 of the year following their birth. A horse may start its racing career at two years of age; however, in California, a horse must actually have reached its second birth date before it can enter into a race (For example: a horse born on May 9, 2016 would not be eligible to enter into a race until May 9, 2018.). Nationally, older horses have made up a large part of the racing population with an estimated one-third of the horse racing population at least five years old. Some states enforce age restrictions for Thoroughbreds, and the United States Trotting Association (USTA) enforces a Standardbred retirement age of 14 years.³ California does not have an age cut off for racing (although it honors the USTA rule). Horses as old, or nearly as old, as 13 years of age regularly compete in North American races. However, it has been demonstrated that un-started four-year-old horses (and older) are at a greater risk of injury than horses that started racing earlier in their career. Although the reason for this is not clear, some horses may start later because of ongoing health issues, or confirmation or soundness issues. A report from the Equine Injury Database (EID), which looked at all California races during the course of the study, states that first time starters four years old and older have an increased chance of injury. The EID found that four-year-old first-time starters were 33% more likely to have an injury than two-year olds. The proposed addition of subsection 1588(a)(15) is necessary to help ensure that horses four years old and older, that are first time starters, are raceably sound and in fit physical condition to exert their best effort in a race. The proposed amendment is in line with the ARCI Model Rules of Racing, Rule ARCI-010-030 Horses Ineligible, which provides that a horse is ineligible to start in a race when it is a first-time starter four years of age or older, until the horse has been subjected to an

³ USTA Rule 19-Racing Under Saddle, section 19.04. Age and Gait of Horse. No horse under the age of three (3) and no older than fourteen (14) years of age shall be eligible to start. Racing Under Saddle races shall be restricted to the trotting gait.

assessment of its racing condition, including the taking of post-workout blood and urine test samples.

The proposed amendment to Rule 1866 will modify subsection 1866(e) to provide clarity regarding the term “qualifying race.” As used in Rules 1588 and 1866, the term refers to standardbred qualifying races. Qualifying races are purse-less races that are required for horses that break stride too often, behave badly before or during races, that fail to produce speed up to the local standard or that have been sidelined by illness or injury. Essentially, qualifying races assure the public that a horse permitted to start in an event with pari-mutuel wagering is fit for competition.

BENEFITS ANTICIPATED FROM THE REGULATORY ACTION

The proposed amendment to Rule 1588 adds a new subsection 1588(a)(14), which states that a horse that has not raced at a recognized race meeting within 12 consecutive months since its previous start must perform satisfactorily in a workout or standardbred qualifying race as provided in Rule 1866(e) and (f). The proposed amendment will also add subsection 1588(a)(15) to provide that a horse that has never started in a race, and that is four years of age or older, is ineligible to start in a race until such horse has performed satisfactorily in a workout or a standardbred qualifying race as provided in Rule 1866(e) and (f). The proposed amendment of Rule 1866 will modify subsection 1866(e) to provide clarity regarding the term “qualifying race.” The addition of subsections 1588(a)(14) and (a)(15) will promote the health and safety of race horses. The health and safety of jockeys will also be advanced, as a reduction in equine injuries and sudden deaths may also mean lower jockey injury rates. Ensuring the health of race horses protects the financial interests of racing associations, horse owners, trainers and jockeys. Racing associations depend on an inventory of sound horses to fill races and generate handle; owners and trainers suffer financial losses when horses are unable to compete for a purse; and injured jockeys lose income when they are unable to ride. The proposed amendment of Rule 1866 will provide clarity for persons who must comply with the regulation.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS OR DOCUMENTS

The following studies/relevant data were relied upon in making the above determination

Association of Racing Commissioners International Model Rules of Racing Version 8.4.1.

Parkin, Tim (2015) Equine Injury Database – models, risk factor and prediction (PowerPoint slides)

Georgopoulos, Stamatis P., Parking, Tim D.H., “Risk factors for equine fractures in Thoroughbred flat racing in North America.” Preventive Veterinary Medicine 139 (2017) 99-104.

ECONOMIC IMPACT ASSESSMENT

The results of the Board’s Economic Impact Assessment as required by Government Code Section 11346.3(b) are as follows:

1. The proposed regulations will not impact the creation or elimination of jobs within the State of California.
2. The proposed regulations will not have an impact on the creation of new businesses or the elimination of existing businesses in the State of California.
3. The proposed regulations will not have an impact on the expansion of existing businesses in the State of California.
4. The proposed regulations will benefit California by promoting the safety and welfare of horses and riders and will not benefit nor negatively impact the State's environment.

The Board has made the initial determination that the proposed amendment to Rule 1588 and Rule 1866 will not have a significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states. The proposed amendment will safeguard the health and welfare of race horses, and act to reduce jockey injuries.

PURPOSE

The proposed amendment to Rule 1588 will add a new subsection 1588(a)(14) to provide that any horse that has not raced within 12 consecutive months since its previous start is ineligible to start in a race until such horse has performed satisfactorily in a workout or a standardbred qualifying race as provided in subsections (e) and (f) of Rule 1866, Veterinarian's List. In addition, the proposed amendment of Rule 1588 will add a new subsection 1588(a)(15) to provide that a horse that has never started in a race, and that is four years of age or older, is ineligible to start in a race until such horse has performed satisfactorily in a workout or a standardbred qualifying race as provided in Rule 1866(e) and (f). The proposed amendment to Rule 1866 will modify subsection 1866(e) to make it clear that qualifying races are standardbred events.

THE CREATION OR ELIMINATION OF JOBS WITHIN THE STATE OF CALIFORNIA

The proposed amendment to Rule 1588 will add a new subsection 1588(a)(14) to provide that any horse that has not raced within 12 consecutive months since its previous start is ineligible to start in a race until such horse has performed satisfactorily in a workout or a standardbred qualifying race as provided in subsections (e) and (f) of Rule 1866, Veterinarian's List. In addition, the proposed amendment of Rule 1588 will add a new subsection 1588(a)(15) to provide that a horse that has never started in a race, and that is four years of age or older, is ineligible to start in a race until such horse has performed satisfactorily in a workout or a standardbred qualifying race as provided in Rule 1866(e) and (f). The proposed amendment to Rule 1866 will modify subsection 1866(e) to make it clear that qualifying races are standardbred events. Because the proposed amendments merely define additional prerequisites for racing eligibility, the Board has determined that this regulatory proposal will not have a significant impact on the creation or elimination of jobs in the State of California.

THE CREATION OF NEW BUSINESSES OR THE ELIMINATION OF EXISTING BUSINESSES WITHIN THE STATE OF CALIFORNIA

The proposed amendment to Rule 1588 will add a new subsection 1588(a)(14) to provide that any horse that has not raced within 12 consecutive months since its previous start is ineligible to start in a race until such horse has performed satisfactorily in a workout or a standardbred qualifying race as provided in subsections (e) and (f) of Rule 1866, Veterinarian's List. In addition, the proposed amendment of Rule 1588 will add a new subsection 1588(a)(15) to provide that a horse that has never started in a race, and that is four years of age or older, is ineligible to start in a race until such horse has performed satisfactorily in a workout or a standardbred qualifying race as provided in Rule 1866(e) and (f). The proposed amendment to Rule 1866 will modify subsection 1866(e) to make it clear that qualifying races are standardbred events. Because the proposed amendments merely define additional prerequisites for racing eligibility, the Board has determined this regulatory proposal will not have an impact on the creation of new businesses or the elimination of existing businesses in the State of California.

THE EXPANSION OF BUSINESSES CURRENTLY DOING BUSINESS WITHIN THE STATE OF CALIFORNIA

The proposed amendment of Rule 1588 will affect only those horses that have not raced in a recognized race meeting within 12 consecutive months since their last starts, and horses four years old, or older, that have never started in a race. The amendment provides that such horses shall be ineligible to start in a race until they have performed satisfactorily in a workout or a standardbred qualifying race as provided in subsections (e) and (f) of Rule 1866. The proposed amendment of Rule 1866 clarifies the meaning of "qualifying race." Because the proposed amendments merely define additional prerequisites for racing eligibility, the CHRB has determined that the proposed regulatory actions are not relevant to the expansion of businesses currently doing business in the State of California.

INITIAL DETERMINATION

Because the proposed amendments merely define additional prerequisites for racing eligibility, the Board has made an initial determination that the proposed amendment of Rule 1588 and Rule 1866 will not have a significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states. The proposed amendment to Rule 1588 will affect only those horses that have not raced in a recognized race meeting within 12 consecutive months since their last starts, and horses four years old, or older, that have never started in a race. The amendment provides that such horses shall be ineligible to start in a race until they have performed satisfactorily in a workout or a standardbred qualifying race as provided in subsections (e) and (f) of Rule 1866. The proposed amendment of Rule 1866 clarifies the meaning of "qualifying race."

BENEFITS OF THE REGULATIONS TO THE HEALTH AND WELFARE OF CALIFORNIA RESIDENTS, WORKER SAFETY, AND THE STATE'S ENVIRONMENT

The proposed amendment of Rule 1588 and Rule 1866 is a benefit to the health and welfare of California residents because they promote the health and safety of horse and rider.

Requiring workouts and standardbred qualifying races, as well as official blood and urine samples from race horses that have not raced in a recognized race meeting within 12 consecutive months since their last starts, and horses four years old, or older, that have never started in a race, serves to ensure that horses are race ably sound and in fit physical condition to exert their best efforts in a race.

The proposed amendment of Rule 1588 will add a new subsection 1588(a)(14) to provide that any horse that has not raced within 12 consecutive months since its previous start is ineligible to start in a race until such horse has performed satisfactorily in a workout or a standardbred qualifying race as provided in subsections (e) and (f) of Rule 1866, Veterinarian's List. In addition, the proposed amendment of Rule 1588 will add a new subsection 1588(a)(15) to provide that a horse that has never started in a race, and that is four years of age or older, is ineligible to start in a race until such horse has performed satisfactorily in a workout or a standardbred qualifying race as provided in Rule 1866(e) and (f). The proposed amendment of Rule 1866 will modify subsection 1866(e) to make it clear that qualifying races are standardbred events. The required workouts and qualifying races, and the blood and urine sampling, will serve to safeguard the health and welfare of horses and riders.

The proposed amendment of Rule 1588 and Rule 1866 will benefit the health and welfare of California residents who hold occupational licenses as jockeys, apprentice jockeys, drivers or other licensees that require close proximity to race horses. The proposed regulations safeguard the health and safety of the California's racing equines. Sound race horses help prevent accidents and injuries to horse and rider. This regulation does not benefit nor negatively impact the state's environment.

ALTERNATIVE TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON AFFECTED PRIVATE PERSONS OR BUSINESSES

The Board has determined that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION

The proposed amendment of Rule 1588 and Rule 1866 was discussed at the October 2018 Medication Safety and Welfare Committee Meeting and the October 2018 Regular Board Meeting. No alternatives to the recommendations were proposed by the Board or by any other individual or

entity at the meeting. No subsequent alternative recommendations were made prior to the notice. The Board invites any interested party to submit comments which offer any alternative proposal.

California Horse Racing Board
April 26, 2019

CALIFORNIA HORSE RACING BOARD
TITLE 4. CALIFORNIA CODE OF REGULATIONS
ARTICLE 6. ENTRIES AND DECLARATIONS
PROPOSED AMENDMENT OF
RULE 1588, HORSE INELIGIBLE TO START IN A RACE

1588. Horse Ineligible to Start in a Race.

(a) In addition to any other valid ground or reason, a horse is ineligible to start in any race:

(1) if such horse is not registered by the Jockey Club if a thoroughbred, the United States Trotting Association if a standardbred, the American Quarter Horse Association if a quarter horse, the Appaloosa Horse Club if an appaloosa horse, the Arabian Horse Registry of America if an Arabian horse, or the American Paint Horse Association if a paint horse;

(2) if the parentage verification to both the sire and the dam of all horses foaled in 1992 and thereafter has not been certified by the Jockey Club if a thoroughbred, the United States Trotting Association if a standardbred, the American Quarter Horse Association if a quarter horse, the Appaloosa Horse Club if an appaloosa horse, the Arabian Horse Registry of America if an Arabian horse, or the American Paint Horse Association if a paint horse;

(3) if, unless the stewards permit otherwise, the certificate of foal registration, eligibility papers, or other registration issued by the official registry for such horse is not on file with the racing secretary at the time of entry;

- (4) if such horse has been entered or raced at any recognized race meeting under any name or designation other than the name or designation duly assigned by and registered with the official registry;
- (5) if the certificate of foal registration, eligibility papers or other registration issued by the official registry has been altered, erased, or forged;
- (6) if the identification markings of the horse do not agree with the identification markings as set forth in the registration of such horse;
- (7) unless he is eligible to enter said race and is duly entered for such race;
- (8) when such horse is owned in whole or in part by an unlicensed person or is in the care of an unlicensed trainer;
- (9) when such horse is on the Steward's List, the Starter's List or the Veterinarian's List;
- (10) when, except with prior approval of the stewards for good cause, such horse is on the Veterinarian's List in another racing jurisdiction. Good cause includes:
 - (A) unforeseen administrative issues in removing the horse from the Veterinarian's List of another racing jurisdiction;
 - (B) the location of the horse prevents it from being evaluated by the official veterinarian of another racing jurisdiction and cleared from that jurisdiction's Veterinarian's List, and the horse is approved to race by a California official veterinarian; or
 - (C) any other unforeseen event or reason that would prevent a horse that would otherwise not be on a Veterinarian's List from being cleared from the Veterinarian's List of another racing jurisdiction.

(11) when, except with prior approval of the stewards, such horse has not been on the grounds of the association or its approved auxiliary stable area for at least 24 hours prior to the time the race is to be run.

(12) when such horse does not carry a microchip or has not received a waiver from the stewards in accordance with Rule 1597.5.

(13) when such horse has received an intra-articular injection within the previous five days (120 hours) prior to the scheduled post-time for the race in which it is entered.

(14) when such horse has not raced at a recognized race meeting within 12 consecutive months since its previous start, until the horse has performed satisfactorily in a workout or standardbred qualifying race as provided in Rule 1866(e) and (f).

(15) when such horse is a first-time starter four (4) years of age or older, until the horse has performed satisfactorily in a workout or standardbred qualifying race as provided in provided in Rule 1866(e) and (f).

Authority: Sections 19440 and 19562,
Business and Professions Code.
Reference: Sections 19440 and 19562,
Business and Professions Code.

CALIFORNIA HORSE RACING BOARD
TITLE 4. CALIFORNIA CODE OF REGULATIONS
ARTICLE 15. VETERINARY PRACTICES
PROPOSED AMENDMENT OF
RULE 1866. VETERINARIAN'S LIST

1866. Veterinarian's List.

(a) The official veterinarian shall maintain a Veterinarian's List of those horses determined to be unfit to compete in a race due to veterinary treatment, physical distress, injury, lameness, unsoundness or infirmity.

(1) When a horse is placed on the Veterinarian's List, the trainer of such horse shall be notified within 72 hours.

(b) A horse placed on the Veterinarian's List as:

(1) sick;

(2) having received veterinary treatment-shockwave therapy;

(3) injured;

(4) unsound; or

(5) lame,

may not workout for 72 hours after being placed on the list without the permission of the official veterinarian.

(c) The official veterinarian may require any horse placed on the Veterinarian's List to undergo a veterinary examination prior to resuming training at any facility under the jurisdiction of the Board.

(d) A horse placed on the Veterinarian's List shall be removed from the list only after having established or demonstrated to the satisfaction of the official veterinarian or the racing veterinarian that the horse is then raceably sound and in fit physical condition to exert its best effort in a race.

(1) A horse placed on the Veterinarian's List as lame or unsound for the first time within a 365 day period must stay on the Veterinarian's List for a minimum of 10 days before the horse is eligible to be removed from the list.

(2) A horse placed on the Veterinarian's List as lame or unsound for the second time in 365 days must stay on the Veterinarian's List for a minimum of 30 days before the horse is eligible to be removed from the list.

(3) A horse placed on the Veterinarian's List as lame or unsound for the third time in 365 days must stay on the Veterinarian's List for a minimum of 60 days before the horse is eligible to be removed from the list.

(4) A horse placed on the Veterinarian's List as lame or unsound for the fourth time in 365 days must stay on the Veterinarian's List for a minimum of 180 days before the horse is eligible to be removed from the list.

(e) A horse may be required to perform satisfactorily in a workout or standardbred qualifying race to demonstrate its physical fitness, and if so a blood and/or urine post-work test sample shall be taken from the horse and the provisions of this article shall apply to such official workout in the same manner as to a scheduled race.

(f) For the purpose of this regulation, "workout" means an exercise session near full speed, or close to full speed.

Authority: Sections 19440 and 19562,
Business and Professions Code.
Reference: Sections 19440 and 19562,
Business and Professions Code.